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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,058	08/06/2003	Mark Kubale	66042-9291-03	1333
23409	7590	02/25/2004	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			TSO, EDWARD H	
			ART UNIT	PAPER NUMBER
			2838	

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/635,058	KUBALE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Edward H Tso	2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 15-27,33-40,44-47 and 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 15-27,33-40,44-47 and 49 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on originally is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### *Specification*

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The disclosure should be carefully reviewed to ensure that any and all grammatical, idiomatic, and spelling or other minor errors are corrected.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear why the battery would supply power to the charging circuit (lines 5-6) since the charging circuit is already being powered by the power source (line 3). The specification and other claims disclose the device as a battery charger charging batteries (spec page 3 ultimate paragraph). Clarification is requested. For the purpose of examination, the Examiner assumes the battery is being charged by the charging circuit.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15, 16, 19-22, 25-27, 33-35, 38-40 and 44-47 are rejected under 35 U.S.C. 102(b) as being anticipated by FAUDE et al. (US 5,280,229). The reference discloses, *inter alia*, a charging device having a housing 10 with a charger support portion 12 connectable to a power source (not shown), a battery connectable to the charger having an insertion portion with electrical terminals (bottom portion of 17), an adapter 11 separate from the housing and the battery having an opening 15 wherein the battery is inserted along the adapter attachment axis to the charger support portion. The adapter is configured as a sleeve member (11a, 11b, 11c...) and having adapter electrical assembly terminal to electrically connect the battery terminals to the charger terminals (column 4, lines 50-55). See figure 1. Method claims mirrored the apparatus and further defined the battery being a tower-style battery (long cylindrical in shape) supported on the tower-style charger. See figure 2.

***Double Patenting***

Claims 15-27 and 34-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-41 of U.S. Patent No. 6,525,511 in view of FAUDE et al. (US 5,280,229). FAUDE discloses a battery charger having different sleeves for different type of batteries (see above for more details). It would have been obvious to

Art Unit: 2838

one having ordinary skill in the art to have replaced the claimed electrical component with a battery charger such as the one claimed in FAUDE in order to have capability to charge different shapes of batteries. Hence further expands the definition of a universal charger.

Claim 33 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,525,511. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one having ordinary skill in the art at the time the invention was made to have placed the groove/projection on either the component device or the battery so that the groove/projection can act as a guide for insertion and since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Claims 44-47 and 49 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20 and 21 of U.S. Patent No. 6,621,246. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant method claims are broader and would encompass the patented claims.

#### ***Allowable Subject Matter***

Claims 17, 18, 23, 24, 36, 37 are objected to as dependent upon rejected 35 USC 102(b) base claims but would be allowable if rewritten or amended in independent form including all of the limitations of the base claim and any intervening claims and the filing of an approved terminal disclaimer. FAUDE does not disclose or suggest a locking assembly.

***Conclusion***

Any inquiry concerning this communication should be directed to the Examiner at the below-listed number.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703 308 0956, Monday-Friday, 830am to 5:00pm, EST.

By:



EDWARD TSO  
Primary Examiner  
571 272 2087